

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Marcus Albines Joseph,)	C/A No. 3:20-3332-RMG
)	
Plaintiff,)	
)	
v.)	ORDER AND OPINION
)	
B. Salley, Solicitor; and Bryan Stirling,)	
Director of S.C.D.C.,)	
)	
Defendants.)	
)	

Before the Court is the Magistrate Judge's Report and Recommendation (R & R) (Dkt. No. 8) recommending that Plaintiff's motion to proceed *in forma pauperis* (Dkt. No. 2) be denied and that he be given twenty-one days to pay the filing fee and have the action referred back to the Magistrate Judge, otherwise the action will be dismissed. For the reasons set forth below, the Court adopts the R & R as the order of the Court.

Plaintiff, an incarcerated person proceeding *pro se*, is a "frequent filer" who has filed at least twenty cases in this Court, three of which have been deemed a strike under the Prison Litigation Reform Act, 28 U.S.C. § 1915(g). He therefore cannot proceed *in forma pauperis* unless he satisfies the exception for "imminent danger of serious physical injury" provided by the three-strikes rule. *Id.*; *Torres v. O'Quinn*, 612 F.3d 237, 246 (4th Cir. 2010). Plaintiff's instant complaint does not contain the requisite "specific fact allegations of ongoing serious injury, or of a pattern of misconduct evidencing the likelihood of imminent physical injury" and instead alleges past misconduct unrelated to any imminent danger of serious physical injury. *Johnson v. Warner*, 200 Fed. App'x 270, 272 (4th Cir. 2006) (internal quotation marks omitted).

The Court, therefore, denies the instant motion to proceed *in forma pauperis* and adopts the Magistrate Judge's recommendations.

For the foregoing reasons, the Court **ADOPTS** the R & R (Dkt. No. 8) as the order of the Court. Plaintiff's motion to proceed *in forma pauperis* (Dkt. No. 2) is **DENIED**. Plaintiff is **DIRECTED** that he may pay the filing fee within twenty-one days of the date of this order, in which case this matter shall be referred back to the Magistrate Judge for further review. If Plaintiff chooses not to pay the filing fee by that time, this matter shall be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

AND IT IS SO ORDERED.

s/ Richard Mark Gergel

Richard Mark Gergel
United States District Judge

October 12, 2020
Charleston, South Carolina